

Amend Section 475,
Title 14, California Code of Regulations
Re: Methods of Take for Nongame Birds and Nongame Mammals

- #### IV. Update:

1. The regulatory definition of projectile. A “projectile” is defined as any bullet, ball, sabot, slug, buckshot or other device which is expelled from a firearm through a barrel by force.
2. Established a maximum threshold of lead in a projectile to be ≤ 1.0 percent by weight to account for trace elements present in the projectile production process.

3. Establish the geographic area in which non-lead projectiles would be required for big game hunting as the area described in section 3004.5 Fish and Game Code.
4. Established that it is unlawful to possess any projectile containing lead in excess of the amount permitted and a firearm capable of firing the projectile while taking or attempting to take any nongame.

The Commission did not exercise the option to exclude .22 caliber or smaller rimfire projectiles from the lead prohibition.

The Fish and Game Commission adopted the proposed changes and modifications to the regulations at its December 7, 2007 meeting.

V.. Summary of Primary Considerations Raised in Opposition and in Support:

Primary considerations in support of the final regulation change are consistency with new statute (3004.5). Opposition was based on concerns over increased cost and/or unavailability of non-lead projectiles for a preferred firearm or caliber. These considerations were addressed in the Final Environmental Document, and in responses to public comments.

Responses to public comments received are attached as Summary of Comments and Responses on Section 353 (Methods Authorized for Taking Big Game) & Section 475 (Methods of Take for Nongame Birds and Nongame Mammals).

Additional responses and analysis to public comments received on this topic were included in the 2007 Final Environmental Document entitled: "FINAL ENVIRONMENTAL DOCUMENT REGARDING: Sections 353 and 475 of Title 14, California Code of Regulations, Methods Authorized for Taking Big Game and Methods of Take for Nongame Birds and Nongame Mammals"

VI. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:
California Fish and Game Commission
1416 Ninth Street
Sacramento, California 95814

VII. Location of Department files:

Department of Fish and Game
1812 Ninth Street

Sacramento, California 95814

VIII. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

Due to the recent passage and signing into law of AB 821 and establishment of 3004.5 of the Fish and Game Code, there are no other reasonable alternatives to the proposed action aside from the options (geographical ranges) available to the Commission within the proposed action.

(b) No Change Alternative:

The no change alternative would result in continued risk of indirect lead poisoning to the California condor from legal big game hunting activities and more importantly, would now be inconsistent with new statute per AB 821 and Section 3004.5, of the Fish and Game Code.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

IX. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following determinations regarding the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The Department does not believe that the proposed action will have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Based on information currently available, the Department does not believe that requiring the use of non-lead ammunition or projectiles for the hunting

of big game in California condor range will cause any significant changes to hunting programs administered by the Department or to the public.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

Ammunition retailers not offering non-lead ammunition options will likely experience a reduction in sales and revenue. Those can be mitigated by including non-lead ammunition in their sales inventory. The demand for non-lead ammunition alternatives for a variety of purposes (enforcement, security, target practice) in addition to hunting is increasing.

- (c) Cost Impacts on a Representative Private Person or Business:

Department research indicates that although the number of manufacturers currently producing non-lead ammunition is limited and the price of non-lead ammunition is higher in cost than lead ammunition, neither of these factors will result in significant adverse cost impact to California's big-game hunters:

The difference in price for a box (20 rounds) of non-lead ammunition compared to lead ammunition varies depending on caliber and ranges from \$1.00 (2%) for 7mm caliber to \$5.00 (22%) for .243 caliber.

Differences in non-lead bullet costs for reloading (50 bullets/box) ranged from \$8.60 (37%) for .270 caliber to \$11.04 (65%) for .224 caliber.

Although production may be limited at the present time, a variety of ammunition retailers do offer non-lead ammunition in most calibers used in big-game hunting.

When viewed as part of the total cost of a hunting trip however, (license, tags, food, lodging, fuel, carcass processing, taxidermy, etc.) the increased amount (up to \$5.00 for a box of ammunition and up to \$11.04 for a box of bullets) is not considered significant.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None. There has been some concern from the public that decreased hunting license sales would result, and in turn, decreased funding in federal funds available to the state through the Federal Aid in Wildlife Program (Pittman-Robertson Act). The Department of Fish and Game has no data to substantiate that this will happen, although a survey of hunters

in Fall 2006 suggested some would not buy hunting licenses if this regulatory change were made.

- (e) Nondiscretionary Costs/Savings to Local Agencies:

None

- (f) Programs Mandated on Local Agencies or School Districts:

None

- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None

- (h) Effect on Housing Costs:

None

UPDATED INFORMATIVE DIGEST (Policy Statement Overview)

The regulation changes adopted require non-lead projectiles for big game hunting in the geographic area determined by the Fish and Game Commission to reduce risk of indirect lead toxicity to free-ranging California condors. The changes conform to the recently passed AB 821 and new language contained in Section 3004.5 of the Fish and Game Code. The Fish and Game Commission established:

1. The regulatory definition of projectile. A “projectile” is defined as any bullet, ball, sabot, slug, buckshot or other device which is expelled from a firearm through a barrel by force.
2. Established a maximum threshold of lead in a projectile to be ≤ 1.0 percent by weight to account for trace elements present in the projectile production process.
3. Establish the geographic area in which non-lead projectiles would be required for big game hunting as the area described in section 3004.5 Fish and Game Code.
4. Established that it is unlawful to possess any projectile containing lead in excess of the amount permitted and a firearm capable of firing the projectile while taking or attempting to take any big game.

The Commission did not exempt .22 caliber or smaller, rimfire cartridges and their projectiles from the non-lead projectile requirement.